

OFFICIAL GAZETTE



GOVERNMENT OF GOA

SUPPLEMENT

GOVERNMENT OF GOA

Goa Legislature Secretariat

LA/A/BILLS/8634/2005

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 11-1-2005 is hereby published for the general information in pursuance of the provisions of Rule-138 of the Rules of Procedure and Conduct of Business of the Goa Legislative Assembly.

The Goa Appropriation (No. 3) Bill, 2005

(Bill No. 3 of 2005)

A

BILL

to provide for the authorisation of appropriation of moneys from and out of the Consolidated Fund of the State of Goa to meet the amounts spent on certain services during the year 1997-98 in excess of the amounts granted for those services and for that period.

BE it enacted by the Legislative Assembly of Goa in the Fifty-fifth Year of the Republic of India as follows:—

1. *Short title.*— This Act may be called the Goa Appropriation (No. 3) Act, 2005.

2. *Issue of Rs. 11,96,33,492 out of the Consolidated Fund of the State of Goa to meet excess expenditure for the year 1997-98.*— From and out of the Consolidated Fund of the State of Goa, the sums specified in column (5) of the Schedule hereto amounting in the aggregate to the sum of eleven crores ninety six lakhs thirty three thousand four hundred and ninety two rupees shall be deemed to have been authorised to be paid and applied to meet the amount spent for defraying the charges in respect of services specified in column (2) of the said Schedule for the year 1997-98 in excess of the amounts granted for those services and for that period.

3. *Appropriation.*— The sums deemed to have been authorised to be paid and applied from and out of the Consolidated Fund of the State of Goa under this Act, shall be deemed to have been appropriated for the services and purposes expressed in the said Schedule for the year 1997-98.

SCHEDULE

(See sections 2 and 3)

Demand No.	Services and purposes	Sums not exceeding		
		Voted by Assembly	Charged on the Consolidated Fund of the State of Goa	Total Excess over Grants/ Appropriation
(1)	(2)	(3)	(4)	(5)
		Rs.	Rs.	Rs.
18	Public Works	—	1,814	1,814
20	Pension	17,26,166	—	17,26,166
24	Sports and Youth Services	2,81,076	—	2,81,076

(1)	(2)	(3)	(4)	(5)
29	Housing	32,877	—	32,877
33	Labour and Employment	2,98,000	—	2,98,000
37	Agriculture	85,598	—	85,598
49	Special Area Pro- gramme	5,446	—	5,446
61	Road Transport	2,70,976	—	2,70,976
—	Public Debt	—	11,69,31,539	11,69,31,539
GRAND TOTAL		27,00,139	11,69,33,353	11,96,33,492

LA/A/BILLS/8635/2005

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 11-1-2005 is hereby published for the general information in pursuance of the provisions of Rule-138 of the Rules of Procedure and Conduct of Business of the Goa Legislative Assembly.

The Goa Appropriation (No. 2) Bill, 2005

(Bill No. 2 of 2005)

A

BILL

to provide for the authorisation of appropriation of moneys from and out of the Consolidated Fund of the State of Goa to meet the amounts spent on certain services during the year 1996-97 in excess of the amounts granted for those services and for that period.

BE it enacted by the Legislative Assembly of Goa in the Fifty-fifth Year of the Republic of India as follows:—

1. *Short title.*— This Act may be called the Goa Appropriation (No. 2) Act, 2005.

2. *Issue of Rs. 14,74,56,272 out of the Consolidated Fund of the State of Goa to meet excess expenditure for the year 1996-97.*— From and out of the Consolidated Fund of the State of Goa, the sums specified in column (5) of the Schedule hereto amounting in the aggregate to the sum of fourteen crores seventy four lakhs fifty six thousand two hundred and seventy two rupees shall be deemed to have been authorised to be paid and applied to meet the amount spent for defraying the charges in respect of services specified in column (2) of the said Schedule for the year 1996-97 in excess of the amounts granted for those services and for that period.

3. *Appropriation.*— The sums deemed to have been authorised to be paid and applied from and out of the Consolidated Fund of the State of Goa under this Act, shall be deemed to have been appropriated for the services and purposes expressed in the said Schedule for the year 1996-97.

Statement of Objects and Reasons

The Demands for Excess Grants for the expenditure of this State for the year 1997-98 were presented to the Legislative Assembly on 10th January, 2005. This Appropriation (No. 3) Bill is, therefore, introduced in pursuance of Article 204 read with Article 205 of the Constitution of India to provide for authorisation of appropriation of moneys out of the Consolidated Fund of the State of Goa to meet the amount spent on certain services during the year 1997-98 in excess of the amount granted for those services and for that period.

Governor's Recommendation

The Governor has, in pursuance of Article 207 of the Constitution of India, recommended to the Legislative Assembly the introduction and consideration of the Bill.

Porvorim,

11th January, 2005.

SHRI MANOHAR PARRIKAR

Chief Minister

SCHEDULE
(See sections 2 and 3)

LA/A/BILLS/8636/2005

Demand No.	Services and purposes	Sums not exceeding		Total Excess over Grants/ Appropriation
		Voted by Assembly	Charged on the Consolidated Fund of the State of Goa	
(1)	(2)	(3)	(4)	(5)
		Rs.	Rs.	Rs.
1	State Legislature	—	1,81,036	1,81,036
-	Public Service Commission	—	5,30,981	5,30,981
37	Agriculture	62,835	—	62,835
42	Forestry and Wild Life	74,243	—	74,243
57	Industries	90,761	—	90,761
—	Public Debt	—	14,65,16,416	14,65,16,416
GRAND TOTAL		2,27,839	14,72,28,433	14,74,56,272

Statement of Objects and Reasons

The Demands for Excess Grants for the expenditure of this State for the year 1996-97 were presented to the Legislative Assembly on 10th January, 2005. This Appropriation (No. 2) Bill is, therefore, introduced in pursuance of Article 204 read with Article 205 of the Constitution of India to provide for authorisation of appropriation of moneys out of the Consolidated Fund of the State of Goa to meet the amount spent on certain services during the year 1996-97 in excess of the amount granted for those services and for that period.

Governor's Recommendation

The Governor has, in pursuance of Article 207 of the Constitution of India recommended to the Legislative Assembly the introduction and consideration of the Bill.

Porvorim,

11th, January, 2005.

SHRI MANOHAR PARRIKAR

Chief Minister

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 11-1-2005 is hereby published for the general information in pursuance of the provisions of Rule-138 of the Rules of Procedure and Conduct of Business of the Goa Legislative Assembly.

The Goa Appropriation Bill, 2005

(Bill No. 1 of 2005)

A

BILL

to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Goa for the services and purposes of the financial year 2004-05.

BE it enacted by the Legislative Assembly of Goa in the Fifty-fifth Year of the Republic of India as follows:—

1. *Short title.*— This Act may be called the Goa Appropriation Act, 2005.

2. *Issue of Rs. 96,27,12,000 out of the Consolidated Fund of the State of Goa for the financial year 2004-05.*— From and out of the Consolidated Fund of the State of Goa, there may be paid and applied sums not exceeding those specified in column (5) of the Schedule hereto amounting in the aggregate to the sums of ninety six crores twenty seven lakhs and twelve thousand rupees towards defraying the several charges which will come in the course of payment during the financial year 2004-05 in respect of the services and purposes specified in column (2) of the said Schedule.

3. *Appropriation.*— The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Goa under this Act, shall be appropriated for the services and purposes expressed in the said Schedule in relation to the said financial year.

SCHEDULE
(See sections 2 and 3)

(Rs. in lakhs)

Demand No.	Services and purposes	Sums not exceeding		Total
		Voted by Assembly	Charged on the Consolidated Fund of the State of Goa	
(1)	(2)	(3)	(4)	(5)
1	Legislature Secretariat...	58.00	—	58.00
A1	Raj Bhavan (Charged).....	—	8.57	8.57
2	General Administration and Coordination...	206.15	—	206.15
4	District and Sessions Court (South Goa).....	10.40	—	10.40
5	Prosecution.....	38.00	—	38.00
11	Excise.....	6.00	—	6.00
13	Transport.....	346.70	—	346.70
A3	Goa Public Service Commission.....	—	8.47	8.47
14	Goa Sadan.....	25.00	—	25.00
17	Police.....	564.44	—	564.44
21	Public Works.....	2600.00	25.97	2625.97
23	Home.....	26.00	—	26.00
25	Home Guards and Civil Defence.....	5.00	—	5.00
27	Official Language.....	50.00	—	50.00
31	Panchayats.....	31.60	—	31.60
32	Finance.....	100.00	—	100.00
34	School Education.....	773.49	—	773.49
35	Higher Education...	805.37	—	805.37
37	Government Polytechnic, Panaji.....	27.40	—	27.40
38	Government Polytechnic, Bicholim.....	13.25	—	13.25

(1)	(2)	(3)	(4)	(5)
40	Goa College of Engineering	50.38	—	50.38
42	Sports.....	8.45	1.03	9.48
43	Art and Culture...	339.00	—	339.00
45	Archives and Archaeology	176.00	—	176.00
47	Goa Medical College...	571.00	—	571.00
48	Health Services.....	229.70	1.62	231.32
49	Institute of Psychiatry and Human Behaviour...	5.22	—	5.22
51	Goa Dental College...	15.00	—	15.00
52	Labour.....	26.45	—	26.45
54	Town & Country Planning	260.30	—	260.30
55	Municipal Administration...	102.00	—	102.00
56	Information and Publicity...	1012.78	—	1012.78
61	Craftsman Training.....	40.00	—	40.00
62	Law	2.50	—	2.50
65	Animal Husbandry and Veterinary Services.....	48.00	—	48.00
66	Fisheries.....	13.38	—	13.38
67	Ports Administration.....	6.00	—	6.00
68	Forests.....	111.36	—	111.36
70	Civil Supplies.....	1.00	—	1.00
71	Co-operation.....	21.95	—	21.95
72	Science, Technology and Environment.....	18.00	—	18.00
73	State Election Commission	105.00	—	105.00
74	Water Resources.....	293.48	127.36	420.84
75	Planning, Statistics and Evaluation.....	6.20	—	6.20
77	River Navigation.....	138.60	—	138.60
78	Tourism.....	165.55	—	165.55
TOTAL		9454.10	173.02	9627.12

Statement of Objects and Reasons

The Supplementary Demands for Grants for the year 2004-05 (Second Batch) was presented to the Legislative Assembly on 10th January, 2005. This Bill is introduced in pursuance of Article 204 read with Article 205 of the Constitution of India to provide for the appropriation of certain further sums out of the Consolidated Fund of the State of Goa to meet the expenditure on certain services granted by the Legislative Assembly for those services.

Panaji,

11th January, 2005.

MANOHAR PARRIKAR
Chief Minister

Governor's Recommendation

The Governor has, in pursuance of Article 207 of the Constitution of India, recommended to the Legislative Assembly, the introduction and consideration of the Bill.

LA/A/BILLS/8637/2005

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 11-1-2005 is hereby published for the general information in pursuance of the provisions of Rule-138 of the Rules of Procedure and Conduct of Business of the Goa Legislative Assembly.

**The Goa Sales Tax (Amendment)
Bill, 2005**

(Bill No. 13 of 2005)

A

•BILL

further to amend the Goa Sales Tax Act, 1964
(Act 4 of 1964).

BE it enacted by the Legislative Assembly of Goa in the Fifty-fifth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Goa Sales Tax (Amendment) Act, 2005.

(2) It shall come into force at once.

2. *Amendment of section 17B.*— In section 17B of the Goa Sales Tax Act 1964 (Act 4 of 1964) (hereinafter referred to as the "principal Act"), for the figures and words "15% per annum", the figures and words "12% per annum" shall be substituted.

3. *Amendment of section 19A.*— In section 19A of the principal Act, in sub-section (1), for the figures and words "12% per annum", the figures and words "6% per annum" shall be substituted.

Statement of Objects and Reasons

Section 17B of the Goa Sales Tax Act, 1964 (Act 4 of 1964) (hereinafter referred to as "said Act"), provides for levy of interest at the rate of 15% per annum for delayed payment of tax and other dues by the dealers. Similarly, section 19A of the said Act provides for payment of interest at the rate of 12% per annum by the Government for delayed refunds.

Overall market rate of interest for borrowing has come down recently. As a matter of policy, it is deemed necessary to revise the rates of interest stated in said sections as over three years have elapsed since the last revision.

It is, therefore, proposed, to amend sections 17B and 19A of the said Act so as to bring down the rates of interest specified in said sections 17B and 19A to 12% and 6% per annum, respectively.

This Bill seeks to achieve the above objects.

Financial Memorandum

No financial implications are involved in this Bill since no additional expenditure will be incurred on account of the proposed amendments.

Memorandum Regarding Delegated Legislation

No delegated legislation is envisaged in this Bill.

Porvorim-Goa.
3rd January, 2005.

MANOHAR PARRIKAR
Chief Minister

Assembly Hall,
Porvorim, Goa.
3rd January, 2005.

S. A. Narvekar
Secretary (Legislature)

Governor's Recommendation under
Article 207 of the Constitution

In pursuance of Article 207 of the Constitution of India, I, S. C. Jamir, the Governor of Goa, hereby recommend to the Legislative Assembly of Goa, the introduction and consideration of the Goa Sales Tax (Amendment) Bill, 2005.

A N N E X U R E

Extract of the Goa Sales Tax Act, 1964
(Act 4 of 1964)

17B. Change in the rate of interest for delayed payment of tax and other dues.

The rate of interest for delayed payment of tax and other dues by the dealer, wherever provided for under this Act, shall be calculated at 15% per annum.

Explanation.— For the purpose of calculation of interest payable, part of the month, if any, shall be treated as full calendar month.

19A. Interest on delayed refund.

(1) Where any amount required to be refunded by the Commissioner to any person by virtue of an order issued this Act is not so refunded to him within 90 days of the date of the order, the State Government shall pay such person simple interest at the rate of 12% per annum on the said amount from the date immediately following the expiry of the period of 90 days to the date of the refund:

Provided that where the amount becomes refundable by virtue of the order of the Tribunal or Court, the interest under the provisions of this section shall be payable from the date immediately following the expiry of period of 90 days from the date of the receipt of the order of the Tribunal or Court by the Officer whose

order forms the subject of the proceedings before the Tribunal or Court as the case may be, to the date of refund.

Explanation.—

(1) If the delay in granting the refund within the period of 90 days aforesaid is attributable to the dealer, whether wholly or in part, the period of the delay attributable to him shall be excluded from the period for which interest is payable.

(2) Where any question arises as to the period to be excluded for the purposes of calculation of interest under the provisions of this section, such question shall be determined by the Commissioner, whose decision shall be final.

Assembly Hall,
Porvorim, Goa.
3rd January, 2005.

S. A. Narvekar
Secretary (Legislature)

LA/A/BILLS/8638/2005

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 11-1-2005 is hereby published for the general information in pursuance of the provisions of Rule-138 of the Rules of Procedure and Conduct of Business of the Goa Legislative Assembly.

THE GOA STATE GUARANTEES
(FOURTH AMENDMENT) BILL, 2005

(BILL No. 12 of 2005)

A

BILL

further to amend the Goa State Guarantees Act, 1993 (Goa Act 16 of 1993).

BE it enacted by the Legislative Assembly of Goa in the Fifty-fifth Year of the Republic of India as follows :—

1. *Short title and commencement.*— (1) This Act may be called the Goa State Guarantees (Fourth Amendment) Act, 2005.

(2) It shall come into force at once.

2. *Amendment of section 3.*— In section 3 of the Goa State Guarantees Act, 1993 (Goa Act 16 of 1993), in sub-section (1), for the expression

"Rs.700.00 Crores", the expression "Rs.800.00 Crores" shall be substituted.

Statement of Objects and Reasons

In terms of sub-section (1) of section 3 of the Goa State Guarantees Act, 1993 (Goa Act 16 of 1993), the limit upto which the executive power of the State Government shall extend to the giving of guarantees as provided in clause (1) of Article 293 of the Constitution of India, shall be the sum of Rs.700.00 Crores only. Out of the ceiling limit of Rs.700.00 Crores, the Government has issued guarantees to various institutions/Corporations to the extent of Rs.669.20 Crores. Balance remaining is Rs.30.80 Crores. Although, some corporations/institutions have repaid the loan/credit facility availed by them, to the tune of Rs.42.32 Crores this amount cannot be re-used as guarantee as most of the cases are under Block Guarantee, which cannot be revoked.

In view of the fall in the interest rate Corporations, such as, Economic Development Corporation, Kadamba Transport Corporation, are able to get loans at a lower rate of interest. They are approaching Government for guarantee. Corporations like Goa State Infrastructure Development Corporation are undertaking various infrastructure related projects in the State by availing loan at low rate of interest from financial institutions.

In view of the reasons stated above, it is proposed to increase the limit of giving guarantees from the present limit of Rs.700.00 Crores to Rs.800.00 Crores by suitably amending sub section (1) of section 3 of the said Act, 1993.

This Bill seeks to achieve the above objects.

Financial Memorandum

Financial implications of the proposed Bill will arise only when Government Guarantees are invoked against the State Government, and the liability charged to the Consolidated Fund of the State.

The amount involved in such cases cannot be foreseen at this stage.

Memorandum Regarding Delegated Legislative

No delegated legislation is envisaged in this Bill.

Panaji-Goa.
6th January, 2005.

MANOHAR PARRIKAR
Chief Minister

Assembly Hall,
Porvorim-Goa.
6th January, 2005.

SUDHIR A. NARVEKAR
Secretary (Legislature)

Governor's Recommendation under Article 207 of the Constitution

In pursuance of Article 207 of the Constitution of India, I, S.C. Jamir, the Governor of Goa, hereby recommend to the Legislative Assembly of Goa, the introduction and consideration of the Goa State Guarantees (Fourth Amendment) Bill, 2005 by the Legislative Assembly of Goa.

(S. C. JAMIR)
Governor

ANNEXURE

The Goa State Guarantees Act, 1993 (Act No. 16 of 1993)

Fixation of limit upto which State may give guarantees.—

- (1) The limit upto which the executive power of the State Government shall extend to the giving of guarantees including guarantees given before the commencement of this Act as provided in clause (1) of Article 293 of the Constitution of India, shall be the sum of Rs. 700.00 Crores.
- (2) The State Government shall lay before the State Legislature.—
 - (a) a statement of any guarantee given not later than 6 months from the close of each financial year.
 - (b) within 6 months after the close of any financial year.

LA/A/BILLS/8639/2005

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 10-1-2005 is hereby published for the general information in pursuance of the provisions of Rule-138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa Members of Legislative Assembly
(Removal of Disqualification) (Amendment)
Bill, 2005

(Bill No. 7 of 2005)

A
BILL

further to amend the Goa, Daman and Diu Members of Legislative Assembly (Removal of Disqualification) Act, 1982 (Act 1 of 1982).

BE it enacted by the Legislative Assembly of Goa in the Fifty-fifth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Goa Members of Legislative Assembly (Removal of Disqualification) (Amendment) Act, 2005.

(2) It shall be deemed to have come into force with effect from 15th September, 2004.

2. *Amendment of Schedule.*— In the Schedule to the Goa, Daman and Diu Members of Legislative Assembly (Removal of Disqualification) Act, 1982 (Act 1 of 1982),—

(i) after entry at serial number 9, the following entry shall be inserted, namely:—

“10. The office of a Parliamentary Secretary.”;

(ii) in the proviso, after the words “or corporations” and before the words “is not entitled”, the words and figures “as specified at serial numbers 1 to 9 above,” shall be inserted.

3. *Repeal and saving.*— (1) The Goa Members of Legislative Assembly (Removal of Disqualification) (Amendment) Ordinance, 2004 (Ordinance No. 2 of 2004), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act as if this Act was in force on the day on which such thing or action was done or taken.

Statement of Objects and Reasons

With a view to assist the Hon'ble Chief Minister in discharging his duties smoothly, the office of Parliamentary Secretary was created. In order to protect the holder of such office of Parliamentary Secretary from incurring disqualification under

Article 102 read with Article 191 of the Constitution, the Goa, Daman and Diu Members of Legislative Assembly (Removal of Disqualification) (Amendment) Ordinance, 2004 (Ordinance No. 2 of 2004), was promulgated by the Governor of Goa on 15-09-2004. This Bill seeks to replace the said Ordinance.

This Bill seeks to achieve the above object.

Financial Memorandum

No financial implications are involved in this Bill.

Memorandum Regarding Delegated Legislation

No delegated legislation is envisaged in this Bill.

Porvorim, FRANCISCO D'SOUZA
Dated : 3rd January, 2005. Minister for Legislative Affairs

Assembly Hall, SUDHIR NARVEKAR
Porvorim, Goa. Secretary to the Legislative
Dated : 3rd January, 2005. Assembly of Goa.

ANNEXURE

Extract of the Goa, Daman and Diu Members of Legislative Assembly (Removal of Disqualification) Act, 1982 (Act No. 1 of 1982)

2. *Removal of Certain Disqualifications.*— A person shall not be disqualified for being chosen as, or for being, a member of the Legislative Assembly of Goa, Daman and Diu merely by reason of the fact that he holds any of the offices specified in the Schedule appended to this Act.

SCHEDULE

1. The office of a member of a Home Guard constituted under any law for the time being in force in any State;
2. Any office in connection with the affairs of the Goa University or any committee, council or body connected with the Goa University;
3. The office of Chairman, Economic Development Corporation, Goa, Daman and Diu;
4. The office of Chairman, Kadamba Transport Corporation Limited;
5. The office of Chairman, Goa, Daman and Diu Housing Board;
6. The office of Chairman, Goa, Daman and Diu Tourism Development Corporation Limited;

7. The office of Chairman, Goa, Handicrafts Rural and Small Scale Industries Corporation Limited;
8. The office of Chairman, Goa, Daman and Diu Industrial Development Corporation;
9. The office of Chairman, Director or member of a statutory or non-statutory body or committee or corporation constituted by the Government of Goa, Daman and Diu:

Provided that the Chairman, Director or member of any of the aforesaid committees or bodies or corporations is not entitled to any remuneration other than compensatory allowance.

Explanation.— For the purpose of the aforesaid entries —

(i) "compensatory allowance" means any sum of money payable to the holder of an office by way of daily allowance, [such allowance not exceeding the amount of daily allowance to which a member of the Legislative Assembly is entitled under the Goa, Daman and Diu Salary, Allowances and Pension of the Members of the Legislative Assembly Act, 1964 (2 of 1965)], any conveyance allowance, house-rent allowance or travelling allowance for the purpose of enabling him to recoup any expenditure incurred by him in performing the functions of that office;

(ii) "statutory body" means any corporation, committee, commission, council, board or other body of persons, whether incorporated or not, established by or under any law for the time being in force;

(iii) "non-statutory body" means any body of persons other than a statutory body."

Assembly Hall,
Porvorim, Goa.
3rd January, 2005.

SUDHIR NARVEKAR
Secretary to the Legislative
Assembly of Goa.

LA/A/BILLS/8640/2005

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 10-1-2005 is hereby published for the general information in pursuance of the provisions of Rule-138 of the Rules of Procedure and Conduct of Business of the Goa Legislative Assembly.

The Goa Reconstruction of Registers and
Records Bill, 2005

(BILL No. 6 of 2005)

A

BILL

to lay down the procedure for reconstruction of spoilt registers and records kept and maintained under certain statutes.

BE it enacted by the Legislative Assembly of Goa in the Fifty-fifth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Goa Reconstruction of Registers and Records Bill, 2005.

(2) It shall come into force at once.

2. *Definitions.*— In this Act, unless the context otherwise requires,—

(a) "Chief Registrar" means an officer authorized by the Government to exercise the powers and performs the duties of the Chief Registrar under this Act;

(b) "Government" means the Government of Goa;

(c) "guardian" means a person having the care of a minor or of his property, or of both his person and property;

(d) "minor" means a person who, under the provisions of the India Majority Act, 1875 (Central Act 9 of 1975), is to be deemed not to have attained his majority;

(e) "Official Gazette" means the Goa Government Gazette;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "Registrar" means an officer authorized by the Government to exercise the powers and perform the duties of the Registrar under this Act;

(h) "register" means:—

(i) the birth or death register required to be kept and maintained under the Civil Registration Code or the Registration of Births and Deaths Act, 1969 (Act 18 of 1969), as the case may be; or

(ii) the register of marriages or the register of firms, required to be kept and maintained under the relevant laws for the time being in force relating to registration of marriages or firms, as the case may be, or any other register or document kept and maintained under the Registration Act, 1908 (Act 16 of 1908);

(i) "spoilt register" includes any register, document, part register, entry or part of an entry therein which is found, for whatever reasons, to be damaged, destroyed, obliterated, rendered illegible or totally lost so that authentic copies therefrom cannot be issued for evidentiary purposes;

3. *Reconstruction of spoilt registers and records relating to births and deaths.*— (1) Any person who, having applied to the authorities competent to grant copies from the birth or death registers has failed to obtain the same by reason of such birth or death register, as the case may be, having become a spoilt register, may apply to the Registrar in the prescribed form, for reconstruction of such spoilt register:

Provided that if such a person is a minor, the application shall be made by his guardian.

(2) On receipt of an application under sub-section (1), the Registrar shall conduct an enquiry in the manner prescribed and submit a report thereof to the Chief Registrar alongwith his recommendation within the prescribed period.

(3) If the Chief Registrar, on consideration of the report submitted by the Registrar under sub-section (2), is satisfied that the relevant spoilt register has to be re-constructed, then he shall, within the prescribed period, direct the Registrar to re-construct the whole or any part of the spoilt register in the manner prescribed and the spoilt register shall accordingly be reconstructed and the copy referred to in sub-section (1) shall be granted to the applicant within the prescribed period.

(4) The fees payable for reconstruction of a spoilt register under this section shall be as prescribed and shall be paid in the prescribed manner.

4. *Reconstruction of spoilt registers and records relating to marriages, firms or any other register or document under the Registration Act, 1908.*— The procedure for reconstruction of spoilt registers and records relating to births and deaths as specified in section 3, shall, mutatis mutandis, be applicable for the reconstruction of spoilt registers

and records relating to marriages, firms or any other register or document under the Registration Act, 1908 (Act 16 of 1908):

Provided that an application for reconstruction under this section shall be made to the Sub-Registrar of the respective jurisdiction appointed under the Registration Act, 1908 (16 of 1908) who shall submit his report to the District Registrar, appointed under the said Registration Act, 1908 (16 of 1908).

5. *Power to make rules.*— The Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

6. *Validity.*— The registers and or records reconstructed under the provision of this Act shall have the same validity for all purposes as the original registers and or records kept and maintained under the relevant statutes.

7. *Repeal and saving.*— (1) On and from the date of commencement of this Act, Articles 78 to 88 of the *Codigo do Registo Civil do Estado da India* approved by Decree dated 9-11-1912 shall stand repealed.

(2) Notwithstanding such repeal, anything done or any action taken in exercise of any power conferred by or under the said Articles shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act as if this Act were in force on the day on which such thing or action was done or taken.

Statement of Objects and Reasons

Some old records of registration maintained in the Registration Department, specially the Birth, Death and Marriage Registers, are damaged or spoilt due to continuous handling of the registers permitted under statutes, as also on account of some papers having turned brittle over the years. Due to this fact, people are not able to get certified copies from the spoilt registers for evidentiary and other purposes. The procedure for reconstruction of Birth, Death and Marriage registers under the *Codigo do Registo Civil do Estado da India* approved by Decree dated 9-11-1912 is also expensive, lengthy and virtually impracticable after passage of much time since the enactment. The Registration of Births and Deaths Act, 1969 (18 of 1969), which is in force in Goa with effect from 1-1-1971, has no corresponding provisions for

reconstruction of spoilt registers. This has resulted in difficulty in implementing the guidelines under the said Act of 1969 in respect of Births and Deaths registers generated prior to 1-1-1971 in view of the existence on the statute book of the archaic provisions regarding reconstruction under the said *Codigo do Registo Civil* as in force. The purpose of this Bill is to repeal the Articles 78 to 88 of the said *Codigo do Registo Civil* and lay down the procedure for reconstruction of spoilt registers and records under certain statutes.

This Bill seeks to achieve the above objects.

Financial Memorandum

The Bill involves no financial expenditure for its implementation as the duties to be performed under the provisions of the Bill are proposed to be assigned to the existing machinery.

Memorandum Regarding Delegated Legislation

Clause 2(a) of the Bill empowers the Government to authorize an Officer/Officers to exercise the powers and perform the duties of the Chief Registrar for the purpose of clause 3 of the Bill, so also it empowers the Government to authorize the District Registrar, North Goa and South Goa District, to exercise the powers and perform the duties of Chief Registrars for the purpose of clause 4 of the Bill.

Clause 2 (g) of the Bill empowers the Government to authorize an Officer having custody of spoilt registers to exercise the powers and perform the duties of the Registrar for the purpose of clause 3 of the Bill, so also it empowers the Government to authorize the Sub-Registrars of the respective jurisdiction having custody of spoilt registers to exercise the powers and perform the duties of a Registrar for the purpose of clause 4 of the Bill.

Clause 3 (1) of the Bill empowers the Government to frame rules to specify the form in which an interested person may apply to the Registrar for reconstruction of the spoilt registers.

Clause 3 (2) of the Bill empowers the Government to frame rules to specify the manner in which the Registrar shall conduct an enquiry and also to specify the period within which the Registrar shall submit the report to the Chief Registrar alongwith his recommendations.

Clause 3 (3) of the Bill empowers the Government to frame rules to specify the period within which the Chief Registrar shall direct the Registrar to reconstruct the spoilt registers in the manner to be specified in the rules. Also, said clause 3 (3) empowers the Government to specify by way of rules the amount of fees to be paid for reconstruction of the spoilt register, the manner or payment thereof and the period within which the applicant shall be granted the copies applied for.

Clause 5 of the Bill empowers the Government to make rules to carry out the purposes of the Act.

These delegations are of normal characters.

Assembly Hall,
Porvorim.
3rd January, 2005.

Francisco D'Souza
Minister for Law

Assembly Hall,
Porvorim, Goa.
3rd January, 2005.

Sudhir A. Narvekar
Secretary (Legislature)

LA/A/BILLS/8643/2005

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 10-1-2005 is hereby published for the general information in pursuance of the provisions of Rule-138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Madhya Pradesh Control of Music and Noises Act Samvat 2008 (Goa Amendment) Bill, 2005

(BILL No. 9 of 2005)

A

BILL

further to amend the Madhya Pradesh Control of Music and Noises Act, Samvat 2008 (Madhya Bharat Act, 14 of 1951) as extended to the State of Goa.

BE it enacted by the Legislative Assembly of Goa in the Fifty-fifth year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Madhya Pradesh Control of Music and Noises Act Samvat 2008 (Goa Amendment) Act, 2005.

(2) It shall come into force at once.

2. *Insertion of new section 9A.*— After section 9 of the Madhya Pradesh Control of Music and Noises Act, Samvat 2008 (Madhya Bharat Act 14 of 1951) (hereinafter referred to as the 'principal Act'), the following section shall be inserted, namely:—

"9-A *Power to confiscate musical instruments.*— It shall be lawful for any Police Officer not below the rank of Deputy Superintendent of Police/Sub-Divisional Police Officer to immediately confiscate the musical instruments being played in violation of the provisions of this Act".

3. *Amendment of section 10.*— (i) The existing provision of section 10 of the principal Act shall be renumbered as sub-section (1) and in the sub-section (1) as so renumbered,—

(a) for the words "one month", the words "three months" shall be substituted;

(b) for the words "one hundred rupees" the words "two thousand rupees" shall be substituted.

(ii) after sub-section (1), the following sub-section shall be inserted, namely;—

"(2) When a person is convicted for the second or subsequent time under sub-section (1) he shall be punished with imprisonment which may extend to five months or with fine which may extend to five thousand rupees or with both".

Statement of objects and reasons

The Bill seeks to insert a new section 9A in the Madhya Pradesh Control of Music and Noises Act Samvat 2008 (Madhya Bharat Act 14 of 1951), as extended to the State of Goa, so as to empower any Police Officer not below the rank of Deputy Superintendent of Police/Sub-Divisional Police Officer to immediately confiscate the musical instruments being played in violation of the provisions of the said Act.

In terms of section 10 of the said Act, whoever contravenes or attempts to contravene or abets the contravention of any of the provisions of this Act or acts contrary to any order lawfully made under this Act shall be punished with imprisonment of either description for a term which may extend to one month or with fine not exceeding one hundred rupees or with both. It has been observed that the punishment specified under section 10 of the said Act is very meager and the same has failed to act as a deterrent thereby resulting in increase of violations and contraventions of provisions of the said Act.

With a view to curb the violations, it is proposed to insert sub-section (2) to section 10 of the said Act to specify a punishment that when a person is convicted for the second and subsequent time under sub-section (1) he shall be punished with imprisonment which may extend to five months or with fine which may extend to five thousand rupees or with both.

This Bill seeks to achieve the above objects.

Financial Memorandum

No Financial Implications are involved in this Bill.

Memorandum Regarding Delegated Legislation

No delegated legislation is envisaged in this Bill.

Assembly Hall,
Porvorim-Goa.
3rd January, 2005.

MANOHAR PARRIKAR
Chief Minister

Assembly Hall,
Porvorim-Goa.
3rd January, 2005.

S. A. NARVEKAR
Secretary Legislature

ANNEXURE

Extract of the Madhya Pradesh Control of Music and Noises Act Samvat 2008 (Madhya Bharat Act 14 of 1951)

9. *Power to police to arrest.*— It shall be lawful for any Police Officer not below the rank of Sub-Inspector to require any person acting or about to act contrary to the provisions of this Act to abstain from so doing; and in case of refusal or disobedience, to arrest such person as if he has committed or is about to commit a cognizable offence.

10. *Penalty.*— Whoever contravenes or attempts to contravene or abets the contravention of any of the provisions of this Act or Acts contrary to any order lawfully made under this Act shall be punished with imprisonment of either description for a term which may extend to one month or with fine not exceeding one hundred rupees or with both.

Assembly Hall,
Porvorim-Goa.
4th January, 2005.

S. A. NARVEKAR
Secretary Legislature.

LA/A/BILLS/8644/2005

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 10-1-2005 is hereby published for the general information in pursuance of the provisions of Rule-138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

**The City of Panaji Corporation
(Amendment) Bill, 2005**

(BILL No. 11 of 2005)

A.

BILL

further to amend the City of Panaji Corporation Act, 2002 (Goa Act 1 of 2003).

BE it enacted by the Legislative Assembly of Goa in the Fifty-fifth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the City of Panaji Corporation (Amendment) Act, 2005.

(2) It shall be deemed to have come into force on 24th day of September, 2004.

2. *Amendment of section 9.*— In section 9 of the City of Panaji Corporation Act, 2002 (Goa Act 1 of 2003) (hereinafter referred to as the "principal Act"),—

- (i) in sub-section (1), in clause (a), for the word "Fifty", the word "Thirty" shall be substituted;
- (ii) in sub-section (2), for the words "The State Election Commissioner", the words "The Director of Municipal Administration" shall be substituted.

3. *Amendment of section 17.*— In section 17 of the principal Act, in the proviso to sub-section

(2), for the words "six months", the words "one year" shall be substituted.

4. *Repeal and saving.*— (1) The City of Panaji Corporation (Amendment) Ordinance, 2004 (Ordinance No. 3 of 2004), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in exercise of the powers conferred by or under this Act as if this Act was in force on the day on which such thing or action was done or taken.

Statement of Objects and Reasons

The proposed Bill seeks to amend section 9 of the City of Panaji Corporation Act, 2002 (Goa Act 1 of 2003) so as to reduce the Wards of City Corporation of Panaji, as per the 2001 Census figures, from fifty Wards to thirty Wards. The function of demarcation of boundaries of Wards being administrative work is proposed to be given to Director of Municipal Administration instead of the State Election Commissioner. Further, the Bill seeks to amend section 17 of the said Act, 2002, so as to empower the Government to extend the term of the said Corporation for a period of one year after the expiry of a period of one year as specified in sub-section (2) of said section 17 and to enable the Government to complete certain formalities required for holding the elections to the said Corporation, which are presently under process.

The Bill also seeks to repeal the City of Panaji Corporation (Amendment) Ordinance, 2004 (Ordinance No. 3 of 2004), promulgated by the Governor of Goa on 24-9-2004.

This Bill seeks to achieve the above objects.

Financial Memorandum

No financial implications are involved in this Bill.

Memorandum Regarding Delegated Legislation

No delegated legislation is envisaged in this Bill.

Porvorim, Goa. (DIGAMBAR KAMAT)
3rd January, 2005. Minister for Urban Development

Assembly Hall, SUDHIR NARVEKAR
Porvorim, Goa. Secretary to the Legislative
3rd January, 2005. Assembly of Goa.

ANNEXURE

Extract of Section 9 and Section 17 of the City of
Panaji Corporation Act, 2002

9. *Constitution of Corporation and division of City into wards*— (1) The Corporation shall consist of:-

(a) Fifty Councillors directly elected at ward elections;

(b) Five nominated Councillors having special knowledge or experience in municipal administration, engineering, architecture, archaeology, heritage, etc., nominated by the state Government by a notification.

(2) The state election Commissioner with the approval of state Government shall, from time to time by notification in the Official Gazette, specify for the City the number and boundaries of the wards into which the City shall be divided for the purpose of the ward elections of Councillors, and the number of Councillors to be elected for each ward:

Provided that, the provisions made under sub-section (1) or notification issued under sub-section (2) shall not have effect until the expiry of the duration of the existing term of the Corporation.

17. *Duration of the term of the Corporation*—

(1) The Corporation shall, unless sooner dissolved, continue for a period of five years from the date appointed for its first meeting and no longer.

2. A Corporation formed immediately after the commencement of this Act shall continue for a period of one year from the date of its constitution or until the new elections are held under the provisions of the Act, whichever is earlier:

Provided however, the State Government may extend the term of the Corporation referred to in sub-section (2) above not beyond a period of six months, after the expiry of one year, for exceptional reasons.

Assembly Hall,
Porvorim, Goa.
3rd January, 2005.

SUDHIR NARVEKAR
Secretary to the Legislative
Assembly of Goa.

LA/A/BILLS/8645/2005

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 10-1-2005 is hereby published for the general information in pursuance of the provisions of Rule-138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Indian Stamp (Goa Amendment)
Bill, 2005

(Bill No. 4 of 2005)

A
BILL

further to amend the Indian Stamp Act, 1899, as in force in the State of Goa.

BE it enacted by the Legislative Assembly of Goa in the Fifty-Fifth Year of the Republic of India as follows:—

1. *Short title and commencement*.— (1) This Act may be called the Indian Stamp (Goa Amendment) Act, 2005.

(2) It shall come into force at once.

2. *Insertion of new section 9A*.— After section 9 of the Indian Stamp Act, 1899 (Central Act 2 of 1899), as in force in the State of Goa, the following section shall be inserted, namely:—

"9A. *Power of State Government to consolidate duties in respect of receipts*.— The State Government may be, by order published in the Official Gazette, provide for the consolidation of duties in respect of any receipt or class of receipts given by any person (including any Government), subject to such conditions as may be specified in the order."

Statement of Objects and Reasons

In order to mitigate the difficulties faced by the Unit Trust of Indian, in affixing stamps manually on each Unit Certificate, it is proposed to amend the Indian Stamp Act, 1899 (Central Act 2 of 1899), so as to allow consolidation of stamp duty on issue of Unit Certificates.

Financial Memorandum

No financial implications are involved in this Bill.

Memorandum on Delegated Legislation

No delegated legislation is envisaged in this Bill.

Porvorim, Goa.
3rd January, 2005.

PANDURANG MADKAIKAR
Minister for Revenue

Assembly Hall,
Porvorim, Goa.
3rd January, 2005.

S. A. NARVEKAR
Secretary (Legislature)

ANNEXURE

**Extract of section 9 of the Indian Stamp
(Goa Amendment) Act, 1899**

Section 9. Power to reduce, remit or compound duties.—

(1) [The [***] Government] may, by rule or order published in the Official Gazette.—

(a) reduce or remit, whether prospectively or retroactively, in the whole or any part of [the territories under its administration], the duties with which any instruments or any particular class of instruments, or any of the instruments belonging to such class, or any instruments when executed by or in favour of any particular class of persons, by or in favour of any members of such class, are chargeable, and

(b) provide for the composition or consolidation of duties in the case of issues by any incorporated company or other body corporate [or of transfers (where there is a single transferee, whether incorporated or not)] of debentures, bonds or other marketable securities.

[(2) In this section the expression "the Government" means.—

(a) in relation to stamp-duty in respect of bills of exchange, cheques, promissory notes, bills of lading, letters of credit, policies of insurance, transfer of shares, debentures, proxies and receipts, and in relation to any other stamp-duty chargeable under this Act and falling within entry 96 in List I in the Seventh Schedule to the Constitution, the Central Government;

(b) save as aforesaid, the State Government.]

Assembly Hall,
Porvorim, Goa.

S. A. NARVEKAR
Secretary (Legislature)

LA/A/BILLS/8646/2005

The following Bill which was introduced in the Legislative Assembly of the State of Goa on 10-1-2005 is hereby published for the general information in pursuance of the provisions of Rule-138 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

**The Goa Public Health (Amendment)
Bill, 2005**

(BILL No. 8 of 2005)

A

BILL

*further to amend the Goa, Daman and Diu
Public Health Act, 1985.*

BE it enacted by the Legislative Assembly of Goa in the Fifty-fifth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Goa Public Health (Amendment) Act, 2005.

(2) It shall be deemed to have come into force on 8th day of November, 2004.

2. *Amendment of section 2.*— In section 2 of the Goa, Daman and Diu Public Health Act, 1985 (Act 25 of 1985) (hereinafter referred to as the "principal Act"),—

(i) for clause (10), the following clause shall be substituted, namely:

(10) "food" means any article used as food or drink for human consumption other than drugs, and includes:—

(a) any article which ordinarily enters into, or is used in the composition or preparation of, human food,

(b) any flavouring matter or condiments, and

(c) any other article, which the Government may, having regard to its use, nature, substance or quality, declare, by notification in the Official Gazette, as food.

(ii) after clause (15), the following clause shall be inserted, namely:—

" (15A) injurious food" means that food which upon consumption may cause or is likely to cause injury or is likely to be injurious or has the capacity, or tendency to be injurious and cause any harm, damage, injury to the human body or its cells or tissues or any part thereof, and includes all that injurious food which the Government may, having regard to the circumstances, as also its effect use, nature, substance or quality, declare, by notification in the Official Gazette, as injurious food for the purposes of Chapter IXA of this Act,";

(iii) after clause (30), the following clause shall be inserted, namely:—

"(30A) "sale" with its grammatical variation and cognate expression, means the sale of any

article of injurious food, whether for cash or on credit or by way of exchange and whether by wholesale or retail, including free samples for human consumption or use, and includes an agreement for sale, an offer for sale, the exhibition for sale or having in possession for sale of any such article, and includes also an attempt to sell any such injurious article;"

3. *Insertion of new Chapter IXA.*— In the principal Act, after Chapter IX, the following new Chapter IXA shall be inserted, namely:—

CHAPTER IX-A

Articles injurious to Public Health

87A. Prohibition of dealing in food articles injurious to Public Health:—

(1) No person himself or by any other person on his behalf shall manufacture for sale, or store, exhibit, sell or distribute or in any way deal with any injurious food article used for human consumption.

(2) If the Government is satisfied that the use or consumption of any injurious article of food which contains any ingredient and in such quantity which is or is likely to be injurious to public health and that in the public interest, it is necessary or expedient so to do, then, the Government may, by notification in the Official Gazette, prohibit the consumption, manufacture, sale, distribution, storing or stocking of such injurious articles of food, either in the entire State of Goa, or at such places, areas, or part thereof as the Government notifies in this regard.

87B. *Prohibition in dealing with certain articles of food in designated area.*— No substance or article of food containing tobacco or any other ingredients of tobacco, including cigarettes, pan masala, gutkha, beedies, cigars, chewing tobacco shall be manufactured for sale, sold, stored, stocked or distributed or exhibited for sale or consumed by any person within a distance of 50 meters from the following Institutions/places:

- (1) All educational institution's campus including schools, colleges, university, educational boards, technical educational institutes, training centers, academic workshops, etc;
- (2) All religious places or places of worship;
- (3) All hospitals, nursing homes, dispensaries;

(4) Goa State Legislative Assembly Complex, Goa State Secretariat Complex, All Government buildings, all Court buildings;

(5) Sports complexes, sports stadia, all playgrounds.

87C. *Public Analyst.*— The Government may, by notification in the Official Gazette, appoint Public Analysts, attached to the Goa State Combined Food and Drugs Laboratory under the Directorate of Food and Drugs Administration, for such local areas as may be assigned to them by the Government:

Provided that no person who has any financial interest or relatives or any other direct or indirect interest in the manufacture or sale of any article of food shall be appointed to be a Public Analyst under this section.

87D. *Power to entry, search, etc.*— (1) Every District Magistrate, Additional District Magistrate, Sub-Divisional Magistrate, Executive Magistrate, Mamlatdar or any officer of the Directorate of Health Services not below the rank of Health/Medical Officer or any Officer of the Directorate of Food and Drugs Administration not below the rank of Food Inspector, within the local limits of the area for which he/she is so authorized, or any Police Officer not below the rank of Police Sub-Inspector or any other Officer empowered by the Government by general or special order, within the local limits of the area for which he is so authorized, may,—

- (a) enter and search at all reasonable times, with such assistants, if any, as he may consider necessary, any place, building or conveyance, in which he has reason to believe that an offence of dealing in injurious food articles prohibited under this Chapter, has been or is being committed;
- (b) seize the prohibited injurious food articles along with the conveyance or any other mode employed for carrying out the offence;
- (c) examine any record, register, document or any other material or object found in any place mentioned in clause (a), and seize the same if he has reason to believe that it may furnish evidence of the commission of offence punishable under this Act.

(2) The power of entry specified in sub-section (1) includes the power to break open the door, whenever required, provided that before exercising this power a reasonable notice shall be given to the occupier of the premises.

(3) The provisions of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), shall, so far as may be, apply to any search or seizure under this Act, as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code.

(4) Where any person seizes anything, under clause (b) or clause (c) of sub-section (1), he shall, as soon as may be, inform a Magistrate and take his orders as to the custody thereof.

(5) (a) it shall be the duty of every officer of the Police Department, whatsoever rank he may hold, to help, assist and co-operate, with every or any officer discharging duties under preceding sub-section of this section.

(b) It shall be duty of every Government servant, of every rank and post, to render all assistance including acting as witnesses or panchas, when called upon to do so, during any search, seizure or other operations undertaken pursuant to this Act, by any officer mentioned in sub-section (1) of this section.

87E. *Procedure to be followed after seizure.*— When any officer takes a sample of any injurious article of food, which has been prohibited under this Chapter, he shall,—

- (a) give a notice in writing then and there of his intention to have it so analysed to the person from whom he has taken the sample;
- (b) divide the sample then and there into two parts and mark and seal or fasten up each part in such a manner as its nature permits and take signature or thumb impression of the person from whom the sample has been taken in such place and in such manner as may be prescribed:

Provided that where such person refuses to sign or put his thumb impression, the officer, shall call upon one or more witnesses and take his or their signatures or thumb impressions, as the case may be, in lieu of the signature or thumb impression of such person;

(c) send one part for analysis to the public analyst;

(d) retain the second sample for production, in any event before the Court of law, before whom, if any, proceedings are in process, under this Chapter.

(e) where the officer, takes any action under clause (a) of this section, he shall call one or more persons to be present at the time when such action is taken and take his or their signatures.

87F. *Penalty.*— Whoever contravenes the provisions of this Chapter shall, on conviction, be punishable with imprisonment for a term which shall not be less than six months, but which may extend to three years and with a fine which shall not be less than ten thousand rupees.

87G. *Punishment for illegal possession in small quantity for personal consumption of any article of food injurious to health or consumption of such article of food.*— (1) Whoever, in contravention of provisions of this Chapter, possesses in a small quantity, any article of food injurious to health which is proved to have been intended for his personal consumption and not for sale or distribution, or consumes any such food, shall, notwithstanding anything contained in this Chapter, be punishable with fine not exceeding rupees one thousand.

(2) An offence committed under sub-section (1) may, before the institution of the prosecution, be compounded by such officer as may be authorized by the Government, on payment, for credit to the Government, for first such offence an amount not less than rupees five hundred and for any second and subsequent offences with an amount not less than one thousand rupees.

Explanation.— For the purposes of this section, “small quantity” means a packet, or a sachet, or a pouch, containing not more than ten grams of the injurious food articles.

(3) Where an offence has been compounded under sub-section (1), no further proceedings shall be taken against any such offender in respect of such offence, except keeping a record of the same with the concerned Department.

87H. *Cognizance and trial of offences.*— (1) No prosecution for an offence under this

Chapter shall be instituted except by or with the written consent of the officer appointed by the Government or by a person authorized in this behalf, by general or special order, by the Government.

(2) No Court inferior to that of the Judicial Magistrate of the First Class shall try offences under this Chapter.

(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), an offence punishable under this Chapter shall be cognizable and non-bailable.

87I. Forfeiture of property.— Where any person has been convicted under this Chapter, for the contravention of the provisions of this Chapter, the article of food in respect of which the contravention has been committed may be forfeited to the Government, and disposed off or destroyed, as directed by the Government.

87J. Offences by companies.— (1) If the person contravening any of the provisions of this Act is company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company including its Directors, as well as the company shall be deemed to be guilty of the contravention, and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where an offence under this Act has been committed by a company and it is proved that the offence was committed with the consent or connivance of, or is attributable to any neglect on the part of, any Director or Manager, Secretary or other officer of the company, he shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.— For the purpose of this section,—

(a) "Company" means any body corporate and includes a firm or other association of individuals, and

(b) 'Director' in relation to a firm means a partner in the firm.

87K. Protection of action taken in good faith.— No suit, prosecution or other legal proceedings shall lie against the Government or any officer of the Government for anything which is in good faith done or purported to be done in pursuance of this Act.

87L. Provisions of this Chapter to be in addition to and not in derogation of other provisions or laws.— The provisions of this Chapter shall be in addition to and not in derogation of any other provisions of this Act or any other law for the time being in force.

4. Repeal and saving.— (1) The Goa Public Health (Second Amendment) Ordinance, 2004 (Ordinance No. 4 of 2004) is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken in exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in exercise of the powers conferred by or under this Act as if this Act was in force on the day on which such thing or action was done or taken.

Statement of Objects and Reasons

The Goa, Daman and Diu Public Health Act, 1985 (Act 25 of 1985), does not contain provisions for prohibiting manufacture, storage, sale or distribution of articles of food used for human consumption which are injurious to public health.

The Goa Public Health (Second Amendment) Ordinance 2004 (Ordinance No. 4 of 2004) was promulgated by the Governor of Goa on 8-11-2004, for aforesaid purpose. This Bill seeks to replace said Ordinance.

This Bill seeks to achieve the above objects.

Financial Memorandum

No financial implications are involved in this Bill.

Memorandum Regarding Delegated Legislation

ANNEXURE

Clause (10) of section 2 of the Bill empowers the Government to declare, by notification in the Official Gazette any article as food.

Clause 15A of section 2 of the Bill empowers the Government to declare, by notification in the Official Gazette injurious food.

Clause 87-A(2) of the Bill empowers the Government to prohibit by notification in the Official Gazette the consumption, manufacture, sale, distribution, storing or stocking of any article of food, which is injurious to Public Health.

Clause 87-C of the Bill empowers the Government to appoint, by notification in the Official Gazette, Public Analysts.

Clause 87-D of the Bill empowers the Government to appoint, by general or special order, officers to carry out search and seizure of injurious food.

Clause 87-E(b) of the Bill empowers the Government to frame rules specifying the place and manner in which the signature or thumb impression on the sample of injurious articles of food may be obtained.

Clause 87-G(2) of the Bill empowers the Government to authorize certain officers to compound the offence committed under sub-section (1) of said section 87-G.

Clause 87-H of the Bill empowers the Government to appoint, by general or special order, officers to institute the cases under Chapter IX-A of the Act.

These delegations are of normal character.

Porvorim Goa.
5th January, 2005.

Dr. SURESH AMONKAR
Minister for Health

Assembly Hall,
Porvorim, Goa.
5th January, 2005.

SUDHIR NAVEKAR
Secretary to the Legislative
Assembly of Goa.

**Extract of the Goa, Daman and Diu Public
Health Act, 1985
(Act No. 25 of 1985)**

Section 2.

Clause (10)

"food" includes every article consumed or used by man, for food, drinks, or chewing, and all materials used or admixed in the composition or preparation of such article and shall also include favouring and colouring matter and condiments;

Clause (15)

"infectious disease" means an infectious disease as defined in section 47 and includes notified diseases as defined in section 57;

Clause (30)

"public street" means any street, road, square, court, alley, lane passage or riding-path, whether a thoroughfare or not, over which the public have right of way, and includes:-

- (a) the roadways over any public bridge or causeway;
- (b) the footway attached to any such street, public bridge or causeway; and
- (c) the drains attached to any such street, public bridge or causeway and the land whether covered or not by any pavement, varanda, or other structure which lies on either side of the roadway upto the boundaries of the adjacent property whether that property is private property or property belonging to the Central Government or the Government;

CHAPTER IX

SANITATION AND BUILDINGS

PART I

CONTROL OVER INSANITARY BUILDINGS

82. *New building not be erected on certain sites.*— (1) No person shall erect a new building on any ground which has been filled up with faecal or offensive vegetable or offensive animal matter or upon which any such matter has been deposited, unless and until the Health Officer certifies that such matter has been properly removed by excavation or otherwise, or has become or been rendered innocuous.

(2) Against the refusal of the Health Officer to issue a certificate under sub-section (1), an appeal shall lie to the Government whose decision shall be final.

83. *Cleansing court-yard or passage used in common.*— (1) If any court-yard or passage which is used in common by the occupants of two or more buildings, but is not a public street, is not regularly swept and kept clean and free from rubbish or other accumulation to the satisfaction of the Health Officer, he may cause such court-yard or passage to be swept and cleaned.

(2) The local authority may recover any expenses reasonably incurred by the Health Officer under sub-section (1) from the occupants of the buildings in such proportions as may be determined by the Health Officer.

84. *Dwelling house unfit for human habitation to be vacated.*— (1) If any dwelling house or portion thereof appears to the Health Officer to be unfit for the purpose of human habitation he may, in cases not falling under section 42, apply to the local authority to prohibit the use thereof for such purpose, and such authority shall make an order prohibiting the use of such dwelling house or portion for human habitation until in the opinion of the Health Officer it is rendered fit thereof.

Provided that before making an order under this sub-section, the local authority shall give the owner and the occupier or occupiers, if any, concerned, a reasonable opportunity of showing cause why such an order should not be made.

(2) When any order has been made under sub-section (1) the local authority shall cause a copy of the order to be communicated to the owner as well as to every occupier concerned; and every such occupier shall be bound to cease to inhabit the dwelling house or portion thereof; as the case may be, within thirty days after the communication of the order to him.

(3) The owner of any dwelling house or portion of a dwelling house in respect of which an order under sub-section (1) is in force, shall not let or occupy, or permit to be let or occupied such dwelling house or portion or any part thereof, as a human habitation.

PART II

ABATEMENT OF OVERCROWDING

85. *Definitions.*— In this part—

(1) "tenement" means a dwelling house and includes—

- (a) any part of a dwelling house which is capable of separate occupation; and
- (b) a students' hostel under public or recognized control, but does not include a dwelling house or part of a dwelling house occupied by the owner thereof; and

(2) "landlord" means the immediate landlord of the occupier or occupiers of a tenement.

86. *Duties of landlord.*— A landlord of a tenement—

- (a) shall maintain it in a habitable condition; and
- (b) expect temporarily on occasions such as marriage and the like shall not cause or permit the tenement to be overcrowded;

Provided that no proceedings shall be instituted against the landlord in respect of any infringement by him of the provisions of this section, unless a notice in writing that the tenement is not in a habitable condition of that it is overcrowded, has been served upon the landlord or his agent by the Health Officer, and the landlord fails within such time as may be specified in such notice to take such steps as may be reasonably open to him for putting the tenement in habitable condition or for securing the abatement of the overcrowding therein, as the case may be, including, if necessary the taking of legal proceedings for possession of the tenement.

87. *Power to make rules.*— The Government shall have power to make rules for determining—

- (a) whether a tenement or any class of tenement is or not maintained in a habitable condition within the meaning of section 86; and
- (b) whether a tenement or any class of tenements is or is not overcrowded within the meaning of that section.

Assembly Hall,
Porvorim Goa.
5th January, 2005.

S. A. NARVEKAR
Secretary to the
Legislative Assembly
of Goa.